



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 8**

**999 18<sup>TH</sup> STREET- SUITE 300**

**DENVER, CO 80202-2466**

**Phone 800-227-8917**

**<http://www.epa.gov/region08>**

**APR 12 2005**

Ref: ENF-W

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Hot Springs County Commissioners  
c/o Charles N. Stump, Jr., Chair  
415 Arapahoe  
Thermopolis, WY 82443

Re: Notice of Safe Drinking Water Act  
Enforcement Action against Red Lane  
Domestic Water, Inc.  
PWS ID # 5600232

Dear County Commissioners:

Under the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) administers a program for promoting the safety of public water supplies. In Wyoming, the EPA enforces this program directly because Wyoming does not have primary authority for doing so. When EPA issues an administrative compliance order to a public water system in a state that does not have primary enforcement authority under the SDWA, EPA is required to notify an appropriate locally elected official. Accordingly, the purpose of this letter is to notify you that EPA is issuing an administrative compliance order to a public water system in your county.

An Administrative Order is being issued under Section 1414 of the SDWA to Red Lane Domestic Water, Inc., Thermopolis, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The System is in violation of 40 C.F.R. §§ 141.86, 141.63, 141.21, 141.21(b)(5), 141.153, 141.201, 141.31(b), 141.21(g)(1), and 141.21(g)(2), for failure to monitor tap water for lead and copper; exceeding the total coliform maximum contaminant level; failure to monitor for total coliform bacteria; failure to complete consumer confidence reports; failure to notify the public of the violations; and failure to report the violations to EPA.



Printed on Recycled Paper

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Lisa Kahn of my staff at (303)312-6896.

Sincerely,



Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice



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**APR 12 2005**

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Red Lane Domestic Water, Inc.  
c/o Mark Berry, Registered Agent  
PO Box 711  
Thermopolis, Wyoming 82443

Re: Administrative Order  
Docket No. **SDWA-08-2005-0015**  
PWS ID # 5600232

Dear Mr. Berry:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Red Lane Domestic Water, Inc. (Red Lane) is a supplier of water as defined by the SDWA and that it has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.86, 141.63, 141.21, 141.21(b)(5), 141.153, 141.201, 141.21(g)(1), 141.21(g)(2), and 141.31(b) for failure to monitor tap water for lead and copper; exceeding the total coliform maximum contaminant level; failure to monitor for total coliform bacteria; failure to complete consumer confidence reports; failure to notify the public of the violations; and failure to report the violations to EPA.

Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.

Among other things, the Order calls for Red Lane to provide a public notification of violations of the SDWA. For your convenience, we have enclosed some template forms to assist you in providing the required public notice. If you have any questions or comments concerning the form of the public notice, please do not hesitate to contact Lisa Kahn of EPA, whose telephone number is provided below.



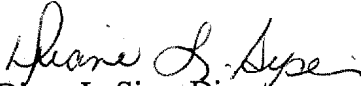
*Printed on Recycled Paper*

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that your business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information should be sent to Lisa Kahn at the address on the letterhead and include the mailcode 8ENF-W, or call (800) 227-8917, extension 6896 or (303) 312-6896. If you wish to have in informal conference with EPA, you may also call or write Ms. Kahn. If you are represented by an attorney, please feel free to ask your attorney to call Michelle Marcu, Enforcement attorney, at the above 800 number, extension 6921, or at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,

  
Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures

Order  
Public Notice template  
SBREFA

cc: Mary Berry, President  
Larry Robinson, WY DEQ (via e-mail)  
Dr. David Barber, WY DOH (via e-mail)  
Dr. Tracy Murphy, WY DOH (via e-mail)  
Dr. Brent Sherard, WY DOH (via e-mail)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2005 APR 12 AM 10:55

IN THE MATTER OF )

Red Lane Domestic Water, Inc. )  
Thermopolis, Wyoming )

Respondent )

Proceedings under Section 1414(g) )  
of the Safe Drinking Water Act, )  
42 U.S.C. § 300g-3(g) )

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2005-0015

FILED  
EPA REGION VIII  
HEARING CLERK

The following Findings are made and Order is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 1414(g) of the Safe Drinking Water Act ("the Act"), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Red Lane Domestic Water, Inc. (Respondent) is a corporation under the laws of the State of Wyoming as of January 1972 and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Red Lane Domestic Water, Inc. Water System (the System), located in Hot Springs County, Wyoming, for the provision to the public of piped water for human consumption.
3. The System has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents and is therefore a "public water

- system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. Part 141.
  5. According to a July 24, 2004 sanitary survey by an agent for EPA, Respondent operates a system that is supplied by purchased surface water, treated and supplied by the Town of Thermopolis, and serves approximately 111 persons per day through 48 service connections.

#### FINDINGS OF VIOLATION

##### I.

1. 40 C.F.R. § 141.86 requires community public water systems that demonstrate for two consecutive six-month monitoring periods that the tap water lead level is less than or equal to 0.005 mg/L and the tap water copper level is less than or equal to 0.65 mg/L to monitor tap water for lead and copper once every three years.
2. Respondent monitored for lead and copper in the tap water on September 29, 2004, but failed to monitor lead and copper in the tap water during the compliance period of 2001 to 2003, in violation of 40 C.F.R. § 141.86.

II.

1. 40 C.F.R. § 141.21 requires community public water systems to monitor their water at least once monthly to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. 40 C.F.R. § 141.63(a)(2) imposes and defines the MCL for total coliform bacteria, applicable to public water systems collecting fewer than 40 samples per month, as no more than one sample collected during the month may be positive for total coliform bacteria.
3. Monitoring results submitted by Respondent for the public water system for November 2000 and April 2001 exceeded the MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(a)(2).

III.

1. 40 C.F.R. § 141.21 requires community public water systems to monitor their water at least once monthly to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Respondent failed to collect a routine sample in October 2003, in violation of 40 C.F.R. § 141.21.

IV.

1. 40 C.F.R. § 141.21(b)(5) requires public water systems that have one or more total coliform positive samples to collect at least 5 routine samples during the next month the system provides water to the public.
2. Respondent failed to collect at least 5 routine samples (Respondent only collected one sample) in January 2001 after a total coliform positive sample in the preceding month, in violation of 40 C.F.R. § 141.21(b)(5).

V.

1. 40 C.F.R. § 141.152 requires owners and operators of community water systems to prepare and deliver an annual Consumer Confidence Report (CCR) to its customers by July 1, containing data collected during the previous calendar year.
2. Respondent failed to prepare and deliver to its customers a CCR for calendar year 2002 by July 1, 2003, in violation of 40 C.F.R. §§ 141.152-155.

VI.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation (NPDWR) violations in 40 C.F.R. Part 141.
2. With the exception of the total coliform MCL violations identified in Section II of this Order, Respondent has not provided public notice of the noncompliance detailed in the preceding Sections I through V of this Order, in violation of 40 C.F.R. § 141.201.



VII.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any NPDWR (40 C.F.R. Part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA the noncompliance detailed in Sections I, V and VI, in violation of 40 C.F.R. § 141.31(b).

VIII.

1. 40 C.F.R. § 141.21(g)(1) requires public water systems to report total coliform MCL violations to EPA by the end of the next business day after the system discovers the violation.
2. Respondent failed to report to EPA the noncompliance detailed in Section II, in violation of 40 C.F.R. § 141.21(g)(1).

IX.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA instances of noncompliance detailed in Sections III and IV, in violation of 40 C.F.R. § 141.21(g)(2).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS

ORDERED:

1. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.86 by monitoring tap water for lead and copper between June 1 and September 30, during the compliance period of 2005 through 2007.
2. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.21(a) to perform monthly bacteriological monitoring. Respondent shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
3. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondent's water system has one or more total coliform positive samples in a month, Respondent shall collect at least 5 routine samples during the next month the system provided water to the public. Respondent shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
4. Within 30 days from the date of this Order, Respondent shall prepare its annual CCR for the year 2002 and distribute it to its customers, in compliance with 40 C.F.R. §§ 141.152-155. The CCR must identify all violations incurred for the reporting year, as required by 40 C.F.R. § 141.153. Respondent shall submit a

copy of the CCR to EPA, including a certification of its distribution, within 10 days of its distribution. Upon the effective date of this Order, Respondent shall comply with the CCR requirements set forth in 40 C.F.R. §§ 141.152-155.

5. No later than 30 days from the effective date of this Order, Respondent must provide public notice of the violations, with the exception of the total coliform MCL violations, specified under the Findings of Violation in this Order to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. This notice shall be given by (1) mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; AND (2) any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice described above, such as publication in a local newspaper, delivery of multiple copies for distribution by customers that provide their drinking water to others, posting in public places served by the system or on the Internet, or delivery to community organizations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists. Upon the effective date of this Order, Respondent shall comply with the public notice requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit

a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

6. Except where different reporting periods are specified below, upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. Part 141) to EPA within 48 hours.
7. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(1) by reporting any total coliform MCL violation under 40 C.F.R. § 141.63 to EPA no later than the end of the next business day after the system learns of the violation.
8. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.
9. Reporting requirements specified in this Order shall be provided by certified mail to:

U. S. EPA Region 8 (8P-W-MS)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

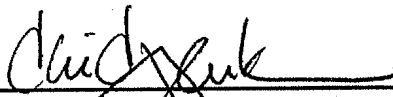
#### GENERAL PROVISIONS

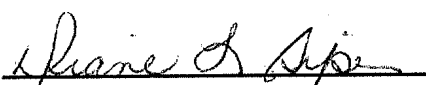
1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which

remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.

2. Violation of any term of this Order may subject the Respondent to an administrative civil penalty of up to \$27,500, under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation, assessed by an appropriate U.S. district court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).
3. Violation of any requirement of the SDWA or its implementing regulations may subject Respondent to a civil penalty of not more than \$32,500 per day of violation, assessed by an appropriate U.S. district court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 12<sup>th</sup> day of April, 2005.

  
\_\_\_\_\_  
Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

  
\_\_\_\_\_  
Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice



## U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

### Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements.

**The National Environmental Compliance Assistance Clearinghouse** provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers: <http://www.epa.gov/clearinghouse>

**Pollution Prevention Clearinghouse**  
<http://www.epa.gov/opptintr/library/ppicindex.htm>

**EPA's Small Business Ombudsman Hotline** can provide a list of all the hot lines and assist in determining the hotline best meeting your needs:  
(800) 368-5888

**Emergency Planning and Community Right-To-Know Act**  
(800) 424-9346

**National Response Center** (to report oil and hazardous substance spills)  
(800) 424-8802

**Toxics Substances and Asbestos Information**  
(202) 554-1404

**Safe Drinking Water**  
(800) 426-4791

**Stratospheric Ozone and Refrigerants Information**  
(800) 296-1996

**Clean Air Technology Center**  
(919) 541-0800

**Wetlands Helpline**  
(800) 832-7828

### EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

**EPA's Home Page**  
<http://www.epa.gov>

**Small Business Assistance Program**  
<http://www.epa.gov/ttn/sbap>

**Office of Enforcement and Compliance Assurance**  
<http://www.epa.gov/compliance>

**Compliance Assistance Home Page**  
<http://www.epa.gov/compliance/assistance>

**Office of Regulatory Enforcement**  
<http://www.epa.gov/compliance/civil/index.html>

**Office of Site Remediation Enforcement**  
<http://www.epa.gov/compliance/cleanup>

**Innovative Programs for Environmental Performance**  
<http://www.epa.gov/partners>

**Small Business Ombudsman**  
[www.sba.gov/ombudsman](http://www.sba.gov/ombudsman)

## TIER 3 TEMPLATES

The pages that follow contain templates for Tier 3 violations and situations. Along with the templates are instructions, including the required method of delivery and instructions for completing individual sections of the notices. These instructions are designed to supplement Chapter 7, so you may see much of the information repeated here.

**Mandatory language on unknown risk for monitoring violations, which must be included exactly as written, is presented in *italics* (141.205(d)). All the language in the fluoride SMCL template (except the language discussed below) is mandatory (141.208).**

You must also include the following italicized language in all notices, where applicable (141.205(d)). Use of this language does *not* relieve you of your obligation to take steps reasonably calculated to notify all persons served:

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.*

### Templates

Monitoring Violations Annual Notice-Template 3-1  
Fluoride SMCL Notice-Template 3-2

## Instructions for Monitoring Violations Annual Notice--Template 3-1

### Template on Reverse

Since most monitoring violations are included in Tier 3, you must provide public notice to persons served within one year after you learn of the violation (141.204(b)). Multiple monitoring violations can be serious, and your primacy agency may have more stringent requirements. Check with your primacy agency to make sure you meet its requirements.

Community systems must use one of the following (141.204(c)):

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

Non-community systems must use one of the following (141.204(c)):

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and non-community systems must use *another* method reasonably calculated to reach others if they would not be reached by the first method (141.204(c)). Such methods could include newspapers, e-mail, or delivery to community organizations. If you post the notice, it must remain posted until the violation is resolved. If the violation has been resolved, you must post the notice for at least one week (141.204(b)). If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the reverse is appropriate for insertion in an annual notice or the CCR, as long as public notification timing and delivery requirements are met (141.204(d)). You may need to modify the template for a notice for individual monitoring violations. This example presents violations in a table; however, you may write out an explanation for each violation if you wish. For any monitoring violation for volatile organic compounds (VOCs) or other groups, you may list the group name in the table, but you must provide the name of every chemical in the group on the notice, e.g., in a footnote.

You may need to modify the notice if you had any monitoring violations for which monitoring later showed a maximum contaminant level or other violation. In such cases, you should refer to the public notice you issued at that time.

Include in your notice the standard language for monitoring and testing procedure violations in *italics* (141.205(d)(2)). If you modify the notice, you may not alter this mandatory language.

### Corrective Actions

In your notice, describe corrective actions you took or are taking. Listed below are some steps commonly taken by water systems with monitoring violations. Choose the appropriate language, or develop your own:

- We have since taken the required samples, as described in the last column of the table above. The samples showed we are meeting drinking water standards.
- We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]
- We plan to take the required samples soon, as described in the last column of the table above.

### After Issuing the Notice

Make sure to send your primacy agency a copy of each type of notice and a certification that you have met all the public notice requirements within ten days after issuing the notice (141.31(d)).



## IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

### Monitoring Requirements Not Met for [System]

Our water system violated several drinking water standards over the past year. Even though these were not emergencies, as our customers, you have a right to know what happened and what we did to correct these situations.

*We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During [compliance period] we ['did not monitor or test' or 'did not complete all monitoring or testing'] for [contaminant(s)] and therefore cannot be sure of the quality of our drinking water during that time.*

#### What should I do?

There is nothing you need to do at this time.

The table below lists the contaminant(s) we did not properly test for during the last year, how often we are supposed to sample for [this contaminant/these contaminants] and how many samples we are supposed to take, how many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

Contaminant / Other Requirements	Required frequency	Number of samples taken	When all samples should have been taken	When samples were or will be taken
Lead and Copper	1 set of samples every three years	0	2001-2003	September 2004
Consumer Confidence Report 2002	Once every year		July 1, 2003	

**What happened? What is being done?**  
[Describe corrective action.]

For more information, please contact [name of contact] at [phone number] or [mailing address].

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.*

This notice is being sent to you by Red Lane Domestic Water, Inc. State Water System ID#: WY5600232

Date distributed: